

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

-----X  
LONNIE JOHNSON

Plaintiff,

- against -

SUMMIT ACQUISITIONS, LLC, d/b/a BK REALTY;  
THOMAS STRAIT, Individually; and STEVE BARCUS,  
Individually,

Defendants.  
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**PLAINTIFF’S REPLY  
TO DEFENDANTS’  
ANSWER TO  
PLAINTIFF’S SECOND  
AMENDED  
COMPLAINT WITH  
COUNTERCLAIMS**

5:15-CV-  
1193(LEK)(ATB)

Plaintiff LONNIE JOHNSON, by and through his attorney, Margaret McIntyre, Attorney at Law, hereby replies to counterclaims interposed by Defendants as follows:

1. Plaintiff repeats and realleges all allegations in Plaintiff’s Second Amended Complaint and denies the averments in paragraphs 1 through 122 of Defendants’ Combined Answer to Plaintiff’s Second Amended Complaint with Counterclaims and Demand for Trial By Jury (hereinafter “Defendants’ Answer and Counterclaims”).

2. Plaintiff admits the allegation in Paragraph 123 of Defendants’ Answer and Counterclaims.

3. Plaintiff admits the allegation in Paragraph 124 of Defendants’ Answer and Counterclaims.

4. Plaintiff admits the allegation in Paragraph 125 of Defendants’ Answer and Counterclaims.

5. Plaintiff admits the allegation in Paragraph 126 of Defendants’ Answer and Counterclaims.

6. Plaintiff admits the allegation in Paragraph 127 of Defendants’ Answer and Counterclaims.

7. Plaintiff denies the allegation in Paragraph 128 of Defendants' Answer and Counterclaims.

8. Plaintiff denies the allegation in Paragraph 129 of Defendants' Answer and Counterclaims.

9. Plaintiff denies the allegation in Paragraph 130 of Defendants' Answer and Counterclaims.

10. Plaintiff denies the allegation in Paragraph 131 of Defendants' Answer and Counterclaims.

11. Plaintiff denies the allegation in Paragraph 132 of Defendants' Answer and Counterclaims.

12. Plaintiff denies the allegation in Paragraph 133 of Defendants' Answer and Counterclaims.

13. Plaintiff denies the allegation in Paragraph 134 of Defendants' Answer and Counterclaims.

14. Plaintiff denies the allegation in Paragraph 135 of Defendants' Answer and Counterclaims.

15. Plaintiff denies the allegation in Paragraph 136 of Defendants' Answer and Counterclaims.

16. Plaintiff denies the allegation in Paragraph 137 of Defendants' Answer and Counterclaims.

17. Plaintiff denies the allegation in Paragraph 138 of Defendants' Answer and Counterclaims.

18. As to the allegations set forth in Paragraph 139 of Defendants' Answer and Counterclaims, Plaintiff avers no response is required.

19. Plaintiff denies the allegation in Paragraph 140 of Defendants' Answer and Counterclaims.

20. Plaintiff denies the allegation in Paragraph 141 of Defendants' Answer and Counterclaims.

21. Plaintiff denies the allegation in Paragraph 142 of Defendants' Answer and Counterclaims.

22. Plaintiff denies the allegation in Paragraph 143 of Defendants' Answer and Counterclaims.

23. As to the allegations set forth in Paragraph 144 of Defendants' Answer and Counterclaims, Plaintiff avers no response is required.

24. Plaintiff denies the allegation in Paragraph 145 of Defendants' Answer and Counterclaims.

25. Plaintiff denies the allegation in Paragraph 146 of Defendants' Answer and Counterclaims.

26. Plaintiff denies the allegation in Paragraph 147 of Defendants' Answer and Counterclaims.

27. Plaintiff denies the allegation in Paragraph 148 of Defendants' Answer and Counterclaims.

28. Plaintiff denies the allegation in Paragraph 149 of Defendants' Answer and Counterclaims.

29. Plaintiff denies the allegation in Paragraph 150 of Defendants' Answer and Counterclaims.

30. Plaintiff denies the allegation in Paragraph 151 of Defendants' Answer and Counterclaims.

31. Plaintiff denies the allegation in Paragraph 152 of Defendants' Answer and Counterclaims.

32. Plaintiff denies the allegation in Paragraph 153 of Defendants' Answer and Counterclaims.

33. Plaintiff denies the allegation in Paragraph 154 of Defendants' Answer and Counterclaims.

34. As to the allegations set forth in Paragraph 155 of Defendants' Answer and Counterclaims, Plaintiff avers no response is required.

35. As to the allegations set forth in Paragraph 156 of Defendants' Answer and Counterclaims, Plaintiff avers no response is required.

36. Plaintiff further denies that Defendants are entitled to any relief demanded under the *ad damnum* clause of Defendants' Answer and Counterclaims and denies any factual allegations contained therein.

#### DEFENSES TO DEFENDANTS' COUNTERCLAIMS

Plaintiff asserts the following defenses and/or affirmative defenses, without assuming any burden of proof that otherwise does not exist as a matter of law.

1. Defendants' Answer and Counterclaims, in whole or in part, fails to state a claim upon which relief can be granted.

2. Defendants' Answer and Counterclaims, in whole or in part, are barred by the applicable statutes of limitations.

3. Defendants' Answer and Counterclaims, in whole or in part, are barred by the doctrines of waiver and estoppel.

4. Any and all actions undertaken by Plaintiff in the course of employment with defendants were reasonable and undertaken in good faith.

5. Defendants' Answer and Counterclaims, in whole or in part, are barred by the doctrine of unclean hands.

6. Defendants' Answer and Counterclaims, in whole or in part, are brought solely for the purpose of continuing to retaliate against plaintiff for complaining of discrimination in violation of the Civil Rights Act of 1866, 42 U.S.C. § 1981 and the New York State Executive Law §296.

7. Defendants' Answer and Counterclaims states no claim that would entitle Defendants to punitive damages or attorneys' fees and costs.

DEMAND FOR RELIEF

WHEREFORE, plaintiff respectfully requests that this Court:

- A. Dismiss all counterclaims brought by Defendants;
- B. Award Plaintiff attorney's fees and costs incurred in defending against these counterclaims; and
- C. Granting Plaintiff such other and further relief as the Court deems just and proper.

Dated: October 31, 2017  
New York, New York

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/s/  
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